

### § 250.3

compensation, in any amount, in exchange for relinquishing the confirmed reserved space. Any other passenger denied boarding is considered for purposes of this part to have been denied boarding involuntarily, even if that passenger accepts the denied boarding compensation.

(b) Every carrier shall advise each passenger solicited to volunteer for denied boarding, no later than the time the carrier solicits that passenger to volunteer, whether he or she is in danger of being involuntarily denied boarding and, if so, the compensation the carrier is obligated to pay if the passenger is involuntarily denied boarding. If an insufficient number of volunteers come forward, the carrier may deny boarding to other passengers in accordance with its boarding priority rules.

(c) If a carrier offers free or reduced rate air transportation as compensation to volunteers, the carrier must disclose all material restrictions, including but not limited to administrative fees, advance purchase or capacity restrictions, and blackout dates applicable to the offer before the passenger decides whether to give up his or her confirmed reserved space on that flight in exchange for the free or reduced rate transportation.

[ER-1337, 48 FR 29680, June 28, 1983, as amended at 68 FR 52836, Sept. 8, 2003; Docket No. DOT-OST-01-9325, 73 FR 21034, Apr. 18, 2008; Doc. No. DOT-OST-2010-0140, 76 FR 23161, Apr. 25, 2011]

### § 250.3 Boarding priority rules.

(a) Every carrier shall establish priority rules and criteria for determining which passengers holding confirmed reserved space shall be denied boarding on an oversold flight in the event that an insufficient number of volunteers come forward. Such rules and criteria shall reflect the obligations of the carrier set forth in §§ 250.2a and 250.2b to minimize involuntary denied boarding and to request volunteers, and shall be written in such manner as to be understandable and meaningful to the average passenger. Such rules and criteria shall not make, give, or cause any undue or unreasonable preference or advantage to any particular person or subject any particular person to any

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unjust or unreasonable prejudice or disadvantage in any respect whatsoever.

(b) Boarding priority factors may include, but are not limited to, the following:

- (1) A passenger's time of check-in;
- (2) Whether a passenger has a seat assignment before reaching the departure gate for carriers that assign seats;
- (3) The fare paid by a passenger;
- (4) A passenger's frequent-flyer status; and
- (5) A passenger's disability or status as an unaccompanied minor.

[ER-1306, 47 FR 52985, Nov. 24, 1982, as amended by ER-1337, 48 FR 29680, June 28, 1983; Doc. No. DOT-OST-01-9325, 73 FR 21034, Apr. 18, 2008]

### § 250.5 Amount of denied boarding compensation for passengers denied boarding involuntarily.

(a) Subject to the exceptions provided in § 250.6, a carrier to whom this part applies as described in § 250.2 shall pay compensation in interstate air transportation to passengers who are denied boarding involuntarily from an oversold flight as follows:

(1) No compensation is required if the carrier offers alternate transportation that, at the time the arrangement is made, is planned to arrive at the airport of the passenger's first stopover, or if none, the airport of the passenger's final destination not later than one hour after the planned arrival time of the passenger's original flight;

(2) Compensation shall be 200% of the fare to the passenger's destination or first stopover, with a maximum of \$650, if the carrier offers alternate transportation that, at the time the arrangement is made, is planned to arrive at the airport of the passenger's first stopover, or if none, the airport of the passenger's final destination more than one hour but less than two hours after the planned arrival time of the passenger's original flight; and

(3) Compensation shall be 400% of the fare to the passenger's destination or first stopover, with a maximum of \$1,300, if the carrier does not offer alternate transportation that, at the time the arrangement is made, is planned to arrive at the airport of the passenger's first stopover, or if none,

the airport of the passenger's final destination less than two hours after the planned arrival time of the passenger's original flight.

(b) Subject to the exceptions provided in §250.6, a carrier to whom this part applies as described in §250.2 shall pay compensation to passengers in foreign air transportation who are denied boarding involuntarily at a U.S. airport from an oversold flight as follows:

(1) No compensation is required if the carrier offers alternate transportation that, at the time the arrangement is made, is planned to arrive at the airport of the passenger's first stopover, or if not, the airport of the passenger's final destination not later than one hour after the planned arrival time of the passenger's original flight;

(2) Compensation shall be 200% of the fare to the passenger's destination or first stopover, with a maximum of \$650, if the carrier offers alternate transportation that, at the time the arrangement is made, is planned to arrive at the airport of the passenger's first stopover, or if not, the airport of the passenger's final destination more than one hour but less than four hours after the planned arrival time of the passenger's original flight; and

(3) Compensation shall be 400% of the fare to the passenger's destination or first stopover, with a maximum of \$1,300, if the carrier does not offer alternate transportation that, at the time the arrangement is made, is planned to arrive at the airport of the passenger's first stopover, or if not, the airport of the passenger's final destination less than four hours after the planned arrival time of the passenger's original flight.

(c) Carriers may offer free or reduced rate air transportation in lieu of the cash or check due under paragraphs (a) and (b) of this section, if—

(1) The value of the transportation benefit offered, excluding any fees or other mandatory charges applicable for using the free or reduced rate air transportation, is equal to or greater than the cash/check payment otherwise required;

(2) The carrier fully informs the passenger of the amount of cash/check compensation that would otherwise be due and that the passenger may decline

the transportation benefit and receive the cash/check payment; and

(3) The carrier fully discloses all material restrictions, including but not limited to, administrative fees, advance purchase or capacity restrictions, and blackout dates applicable to the offer, on the use of such free or reduced rate transportation before the passenger decides to give up the cash/check payment in exchange for such transportation.

(d) The requirements of this section apply to passengers with "zero fare tickets." The fare paid by these passengers for purposes of calculating denied boarding compensation shall be the lowest cash, check, or credit card payment charged for a ticket in the same class of service on that flight.

(e) The Department of Transportation will review the maximum denied boarding compensation amounts prescribed in this part every two years except for the first review, which will take place in 2012 in order to put the reviews specified in this section on the same cycle as the reviews of domestic baggage liability limits specified in 14 CFR 254.6. The Department will use any increase in the Consumer Price Index for All Urban Consumers (CPI-U) as of July of each review year to calculate the increased maximum compensation amounts. The Department will use the following formula:

(1) Current Denied Boarding Compensation limit in section 250.5(a)(2) multiplied by (a/b) rounded to the nearest \$25 where:

a = July CPI-U of year of current adjustment

b = the CPI-U figure in August, 2011 when the inflation adjustment provision was added to Part 250.

(2) The Denied Boarding Compensation limit in §250.5(a)(3) shall be twice the revised limit for §250.5(a)(2).

(f) In addition to the denied boarding compensation specified in this part, a carrier shall refund all unused ancillary fees for optional services paid by a passenger who is voluntarily or involuntarily denied boarding. The carrier is not required to refund the ancillary fees for services that are provided with

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respect to the passenger's alternate transportation.

[Docket No. DOT-OST-2010-0140, 76 FR 23162, Apr. 25, 2011]

### **§ 250.6 Exceptions to eligibility for denied boarding compensation.**

A passenger denied boarding involuntarily from an oversold flight shall not be eligible for denied boarding compensation if:

(a) The passenger does not comply fully with the carrier's contract of carriage or tariff provisions regarding ticketing, reconfirmation, check-in, and acceptability for transportation;

(b) The flight for which the passenger holds confirmed reserved space is unable to accommodate that passenger because of substitution of equipment of lesser capacity when required by operational or safety reasons; or, on an aircraft with a designed passenger capacity of 60 or fewer seats, the flight for which the passenger holds confirmed reserved space is unable to accommodate that passenger due to weight/balance restrictions when required by operational or safety reasons;

(c) The passenger is offered accommodations or is seated in a section of the aircraft other than that specified on the ticket at no extra charge, except that a passenger seated in a section for which a lower fare is charged shall be entitled to an appropriate refund; or

(d) The carrier arranges comparable air transportation, or other transportation used by the passenger at no extra cost to the passenger, that at the time such arrangements are made is planned to arrive at the airport of the passenger's next stopover or, if none, at the airport of the final destination not later than 1 hour after the planned arrival time of the passenger's original flight or flights.

[ER-1337, 48 FR 29680, June 28, 1983, as amended at Docket No. DOT-OST-01-9325, 73 FR 21034, Apr. 18, 2008]

### **§ 250.7 [Reserved]**

### **§ 250.8 Denied boarding compensation.**

(a) Every carrier shall tender to a passenger eligible for denied boarding compensation, on the day and place the denied boarding occurs, except as pro-

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vided in paragraph (b), cash or an immediately negotiable check for the appropriate amount of compensation provided in § 250.5.

(b) Where a carrier arranges, for the passenger's convenience, alternate means of transportation that departs before the payment can be prepared and given to the passenger, tender shall be made by mail or other means within 24 hours after the time the denied boarding occurs.

[ER-1394, 49 FR 43625, Oct. 31, 1984]

### **§ 250.9 Written explanation of denied boarding compensation and boarding priorities, and verbal notification of denied boarding compensation.**

(a) Every carrier shall furnish passengers who are denied boarding involuntarily from flights on which they hold confirmed reserved space immediately after the denied boarding occurs, a written statement explaining the terms, conditions, and limitations of denied boarding compensation, and describing the carriers' boarding priority rules and criteria. The carrier shall also furnish the statement to any person upon request at all airport ticket selling positions which are in the charge of a person employed exclusively by the carrier, or by it jointly with another person or persons, and at all boarding locations being used by the carrier.

(b) The statement shall read as follows:

#### COMPENSATION FOR DENIED BOARDING

If you have been denied a reserved seat on (name of air carrier), you are probably entitled to monetary compensation. This notice explains the airline's obligation and the passenger's rights in the case of an oversold flight, in accordance with regulations of the *U.S. Department of Transportation*.

#### VOLUNTEERS AND BOARDING PRIORITIES

If a flight is oversold (more passengers hold confirmed reservations than there are seats available), no one may be denied boarding against his or her will until airline personnel first ask for volunteers who will give up their reservation willingly, in exchange for compensation of the airline's choosing. If there are not enough volunteers, other passengers may be denied boarding involuntarily in accordance with the following boarding priority of (name of air carrier): (In